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Counsel for Proposed Intervenor-Defendants
 (complete list on signature page)

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

STATE OF CALIFORNIA, STATE OF
 COLORADO, STATE OF DELAWARE,
 COMMONWEALTH OF
 MASSACHUSETTS, STATE OF NEW
 JERSEY, STATE OF NEW MEXICO,
 STATE OF NEW YORK, STATE OF
 OREGON, STATE OF RHODE ISLAND,
 STATE OF VERMONT, and STATE OF
 WASHINGTON,

Plaintiffs,

v.

UNITED STATES OF AMERICA, U.S.
 ENVIRONMENTAL PROTECTION
 AGENCY, LEE ZELDIN, in his official
 capacity as Administrator of the U.S.
 Environmental Protection Agency, and
 DONALD J. TRUMP, in his official capacity
 as President of the United States,

Defendants.

No. 4:25-cv-04966-HSG

**PROPOSED INTERVENOR-
 DEFENDANTS' MOTION FOR LEAVE
 TO FILE MOTION TO DISMISS
 PLAINTIFFS' AMENDED COMPLAINT**

Date: January 8, 2026
 Time: 2:00 p.m.
 Courtroom: 2, 4th Floor Oakland Courthouse
 Judge: Hon. Haywood S. Gilliam, Jr.

NOTICE OF MOTION

PLEASE TAKE NOTICE that on January 8, 2026 at 2:00 p.m., or as soon thereafter as the matter may be heard in Courtroom 2 (4th Floor) of the above-named Court (Hon. Haywood S. Gilliam, Jr. presiding), located at 1301 Clay Street, Oakland, California 94612, Proposed Intervenor-Defendants listed on the signature page will, and hereby do, move for leave to file the attached motion to dismiss the amended complaint filed by Plaintiffs State of California and other States (“Plaintiffs”), ECF No. 157, as described below.

MOTION FOR LEAVE TO FILE MOTION TO DISMISS

Pursuant to Civil Local Rule 7-1 and 7-2, Proposed Intervenor-Defendants respectfully move for leave to file the motion to dismiss Plaintiffs’ amended complaint, attached to this Motion as Exhibit A. This Motion is supported by the Memorandum below.

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF ISSUES

1. Whether Proposed Intervenor-Defendants may file their motion to dismiss, Ex. A.

BACKGROUND

On June 12, 2025, Plaintiffs filed this suit, alleging that three federal laws that invalidated waivers of Clean Air Act preemption issued by the U.S. Environmental Protection Agency (“EPA”) are unconstitutional or were otherwise unlawfully enacted. *See* Complaint, ECF No. 1. As a result of these laws, three California programs regulating emission standards for new motor vehicles are expressly preempted by the Clean Air Act, and Plaintiffs cannot “adopt or attempt to enforce” them. 42 U.S.C. § 7543(a). Proposed Intervenor-Defendants are associations whose members are harmed by the California programs, and who promptly moved to intervene in this case to defend their interests in ensuring that the programs are not enforced. ECF No. 49. Proposed Intervenor-Defendants attached a proposed motion to dismiss to their motion to intervene. ECF No. 49-9. The motion to intervene is fully briefed and has been taken under submission. ECF No. 160.

On September 19, 2025, the Government Defendants filed a motion to dismiss Plaintiffs’ complaint. ECF No. 118. On October 10, 2025, Plaintiffs filed an amended complaint. Am.

1 Complaint, ECF No. 157. On October 23, 2025, this Court granted a stipulated briefing schedule,
 2 which requires the Government to file any motion to dismiss the amended complaint by November
 3 17, 2025. ECF No. 162.

4 ARGUMENT

5 Plaintiffs' amended complaint does not cure the defects of their original complaint. As the
 6 attached motion to dismiss explains, the Congressional Review Act ("CRA") provides that "[n]o
 7 determination, finding, action, or omission under [that Act] shall be subject to judicial review." 5
 8 U.S.C. § 805. This Court therefore lacks jurisdiction over the entirety of Plaintiffs' amended
 9 complaint, which challenges various actions taken by EPA, EPA's Administrator, the President,
 10 and non-party Congress under the CRA. *See* Am. Complaint at 31–43 (Counts I–VI). This Court
 11 also lacks jurisdiction over Plaintiffs' claims for multiple other reasons, including because Plaintiffs
 12 lack standing to challenge EPA's actions and seek the requested relief, review is unavailable under
 13 the Administrative Procedure Act, and Plaintiffs' constitutional claims are a non-justiciable
 14 challenge to congressional procedure. Moreover, Plaintiffs fail to state a cognizable constitutional
 15 claim or cite a viable cause of action. *See* Ex. A at 10–25.

16 As their motion to intervene remains pending, Proposed Intervenor-Defendants seek leave to
 17 file the attached motion to dismiss to preserve their ability to participate in this case without
 18 disrupting the Court's schedule. *See Drakes Bay Oyster Co. v. Salazar*, No. 12-cv-6134, 2013 WL
 19 451813, at *9 n.6 (N.D. Cal. Feb. 4, 2013) (proposed intervenors should seek leave for filing). They
 20 request that the attached motion to dismiss be filed should their motion to intervene be granted.
 21 *See, e.g., Wash. Cattlemen's Ass'n v. EPA*, No. C19-0569, 2019 WL 3206052, at *2–3 (W.D. Wash.
 22 July 16, 2019) (granting leave to file brief in opposition when granting intervention).

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1 Dated: November 17, 2025

Respectfully submitted,

2 /s/ Michael Buschbacher

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12 *American Free Enterprise Chamber of*

13 *Commerce, Illinois Corn Growers Association,*

14 *Indiana Corn Growers Association, Iowa Corn*

Growers Association, Kansas Corn Growers

15 *Association, Kentucky Corn Growers Association,*

16 *Michigan Corn Growers Association, Missouri*

Corn Growers Association, Nebraska Corn

17 *Growers Association, Tennessee Corn Growers*

18 *Association, Texas Corn Producers, Wisconsin*

19 *Corn Growers Association, and National Corn*

20 *Growers Association*

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2025, I served a copy of the foregoing document via CM/ECF to all parties.

Dated: November 17, 2025

/s/ Michael Buschbacher
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